

Service Date: November 4, 2002

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the)	UTILITY DIVISION
Proposed Sale by NorthWestern Energy of)	
Certain Transmission Assets)	DOCKET NO. D2002.10.130
)	ORDER NO. 6449

ORDER AND NOTICE OF OPPORTUNITY TO INTERVENE

Background

NorthWestern Energy (NWE) is in the process of selling to PPL Montana (PPLM) significant transmission assets that have been and are devoted to the provision of public utility service in Montana, as regulated by the Montana Public Service Commission (Commission). This potential transaction has been referred to in, or is the subject of various documents, including: Montana Power Company (n/k/a NWE) and PP&L Montana, LLC, Order Authorizing Disposition of Jurisdictional Facilities and Accepting Rate Schedules, p. 3, Federal Energy Regulatory Commission Docket Nos. EC99-36-000 and ER 99-1799-000 (June 22, 1999); In the Matter of the Application of The Montana Power Company's 1) Approval of the Default Supply Portfolio, and 2) the Projected Electric Cost Tracking for the 12-Month Period Beginning July 1, 2002, Montana Public Service Commission Docket No. D2001.10.144, Order No. 6382d, p. 23 (June 21, 2002); Letter, Gary Feland, Chairman, Montana Public Service Commission, to Mike Hanson, President, NorthWestern Energy (August 28, 2002); Letter, Mike Hanson to Gary Feland (September 18, 2002); Complaint, NorthWestern Energy v. PPL Montana, Cause No. DV-02-197, Montana Second Judicial District Court (August 5, 2002).

Discussion

This Commission has jurisdiction over, and has traditionally exercised jurisdiction over, the disposition (sale, transfer of control, etc.) of public utility assets that have been and are

devoted to public utility service,¹ when such disposition has the potential to significantly impact utility rates and service, and related matters. Commission concerns may include the impact of the disposition on rates, the fitness of the buyer to provide the service and meet the obligations of a public utility, and the proper ratemaking treatment of any gain on sale of utility assets.

The proposed sale of NWE transmission assets to PPLM is a significant public utility transaction with large potential impacts on rates and service. Therefore, the sale is subject to the review and approval of the Commission following a contested case and an opportunity to participate by persons with proper standing.

Conclusions of Law

1. The Montana Public Service Commission regulates the rates and services of public utilities. See Title 69, Chapter 3, MCA; also Title 69, Chapter 8 and other parts of Title 69, MCA.
2. NorthWestern Energy is a public utility subject to the jurisdiction of the Commission.
3. The Commission has jurisdiction to review any sale or transfer of utility assets and obligations.
4. The Commission has jurisdiction to approve, disapprove or condition any sale or transfer of utility assets based on the impact of such sale or transfer on rates and service, and on other matters within the regulatory scope and authority of the Commission.

Order

1. NorthWestern Energy is directed to file, not later than December 13, 2002, an application for Commission approval of the transaction described in this Order.
2. Any interested person who wishes to intervene must file a Petition to Intervene with the Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, no later than November 15, 2002. An original and ten copies of the Petition to Intervene must be

¹ Two, of many, examples are 1) Commission review of the sale by The Montana Power Company of its energy utility businesses to NWE, Docket No. D2001.1.5, Order No. 6353c (January 31, 2002); and 2) Commission review of the sale of certain local exchanges by U S WEST (n/k/a Qwest), Docket No. D93.5.23, Declaratory Ruling (November 24, 1993).

filed with Steve Vick, Montana Public Service Commission at the above address,. One copy must be served on Mike Manion, NorthWestern Energy, 40 E. Broadway, Butte, Montana 59701, and the Montana Consumer Counsel, 616 Helena Avenue, P.O. Box 201703, Helena, Montana 59620-1703.

Following November 15, 2002, Commission staff will, at the request of NorthWestern Energy, convene a meeting with parties to discuss a procedural schedule and necessary elements that need to be included, supported and discussed in the application.

3. NorthWestern Energy is directed to inform the Commission by November 15, 2002, in writing directed to Steve Vick, Montana Public Service Commission, P.O. Box 202601, Helena, Montana 59620-2601, whether it will file an application as directed in this Order.

4. Nothing in this Order represents a prejudgment on the merits of any issue that may arise as a result of the NorthWestern Energy filing.

DONE AND DATED this 22nd day of October, 2002, by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

GARY FELAND, Chairman

JAY STOVALL, Vice Chairman

BOB ANDERSON, Commissioner

MATT BRAINARD, Commissioner

BOB ROWE, Commissioner

ATTEST:

Rhonda J. Simmons
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision.
A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.